THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte PETER S. COLUMBUS and
YOGESHBHAI B. PATEL

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Appeal No. 1996-2004
Application 08/225,889[1]

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ON BRIEF

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Before JOHN D. SMITH, PAK and WALTZ, Administrative Patent Judges.

JOHN D. SMITH, Administrative Patent Judge.

DECISION ON APPEAL

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[1] Application for patent filed April 11, 1994. According to appellants, the application is a division of Application 07/855,919 filed March 23, 1992, now U.S. Patent 5,331,023, issued July 19, 1994.

This is an appeal pursuant to 35 U.S.C. § 134 from the final rejection of claims 27-32 and 38-49.

Representative claim 27 is reproduced below:

27. A method for adhering two surfaces which comprises:

A. friction rubbing of a thermoplastic, pressure-sensitive adhesive mass on a first surface and deposition of adhesive thereon by such friction rubbing;

B. placing a second surface in contact with said deposited adhesive and applying pressure on the two surfaces in contact with the adhesive to form a bond wherein the adhesive consists essentially of a mixture of:

a. about 40% to 75% by weight of polyisobutylene having a Flory molecular weight of from about 40,000 to 70,000;

b. about 25% to 60% by weight of a wax having a melting point of at least 165°F and a needle penetration value of from about 1 to 15; and

c. from 0% to 30% by weight of an adhesion promoter resin for the polyisobutylene and having a softening point above 150°F; and provided that the wax has a needle penetration value of not greater than 8 when the mass contains at least 10% resin.

The references of record relied upon by the examiner are:

Mueller-Cunradi et al. (Mueller-Cunradi)	2,124,235	Jul. 19, 1938
Schrader	3,030,322	Apr. 17, 1962
Borisof	3,165,283	Jan. 12, 1965
Pletcher et al. (Pletcher)	4,066,600	Jan. 3, 1978
Fagan	4,783,354	Nov. 8, 1988

Appealed claims 27-29, 31, 38, 39, and 43-45 stand rejected under 35 U.S.C. § 103 over Pletcher in view of Mueller-Cunradi and Schrader. Appealed claims 30, 32, 40-42 and 47-49 stand similarly rejected as above further in view of Fagan. Appealed claim 46 stands rejected under 35 U.S.C. § 103 as unpatentable over Pletcher in view of Mueller-Cunradi, Schrader, and Borisof.

We cannot sustain the stated rejections.

The subject matter on appeal is directed to a method for adhering two surfaces involving the friction rubbing of a certain thermoplastic, pressure sensitive adhesive mass on a first surface followed by applying pressure to a second surface placed in contact with the adhesive on the first surface to form a bond between the two surfaces. The adhesive used in appellants' process "consists essentially of" a mixture of 1) about 40% to 75% by weight of polyisobutylene having a Flory molecular weight of from about 40,000 to 70,000 and 2) about 25% to 60% by weight of a wax having a melting point of at least 165°F and a needle penetration value of from about 1 to 15. An adhesion promoter resin is an optional component of appellants' adhesive composition.

With respect to the examiner's holding of obviousness of the herein claimed subject matter, the examiner argues that it would have been obvious to a person of ordinary skill in this art to employ Schrader's plastic, rod-form composition (which may be composed of a mixture of a high molecular weight polyisobutylene and a wax component) in place of "the corresponding, analogous rod-form composition" used in the method of Pletcher in view of the teaching of Mueller-Cunradi that blends such as disclosed in Schrader are known to possess "adhesive properties/affinity for various substrate materials." See the answer at page 6.

Initially, we question whether the alleged teachings of Schrader (as construed by Mueller-Cunradi) that Schrader's compositions have known "adhesive properties/affinity for various substrates" constitute an adequate reason or suggestion that would have led one of ordinary skill in this art to have used Schrader's compositions as an adhesive in Pletcher's process. In any event, even if one of ordinary skill in this art had been motivated to make the examiner's proposed modification of Pletcher's process, one does not arrive at the herein claimed method which requires, inter

alia, the use of an adhesive made up of a polyisibutylene component having a Flory molecular weight of from about 40,000 to 70,000. In this respect, Mueller-Cunradi's high molecular weight polyisobutylene polymer adhesives are described as usually having a molecular weight of "at least 1000 and ranging up to a value in the neighborhood of 10,000 and even higher". See this reference at column 1, lines 21-28. Thus, the combined teachings of Pletcher, Schrader, and Mueller-Cunradi do not teach or fairly suggest all the limitations of appellants' claimed method. Accordingly, we are constrained to reverse the stated rejection of appealed claims 27-29, 31, 38, 39, and 43-45. Since the examiner does not explain how the disclosures of either Fagan or Borisof remedy the deficiencies of the Pletcher/Schrader/Mueller-Cunradi combination, we are constrained to reverse each of the stated rejections before us. Thus, the decision of the examiner is reversed.

REVERSED

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JOHN D. SMITH)
Administrative Patent Judge)

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	) BOARD OF PATENT
CHUNG K. PAK	)
Administrative Patent Judge	) APPEALS AND
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	) INTERFERENCES
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THOMAS A. WALTZ	)
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JDS:hh

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